

OHIO HEALTH CARE ASSOCIATION WORKFORCE COMMITTEE MINUTES

January 9, 2023, 1:00 p.m.

[Zoom Meeting](#)

Chair Goodman opened the meeting welcoming everyone to the call and pointed to the meeting and committee materials in the online folder. He requested a motion to approve the minutes from the previous meeting. John Jones motioned to approve, and Tom Rickels second the motion. Attendance for this meeting can be found at the bottom of this document.

Pete Van Runkle began by discussing House Bill 45 (HB45), a significant funding bill that passed at the end of the general assembly and was signed this past Friday by Governor DeWine. This appropriation bill takes effect immediately. HB45 gives one-time lump sum payments to various provider types, including all OHCA member categories (excluding Intermediate Care Facilities (ICFs)). The legislative is not extremely prescriptive other than indicating that funds must be used towards workforce. All except Skilled Nursing Facilities (SNFs) and Developmental Disability (DD) Waiver providers also include a list of prohibited uses such as payments for executive staff, administrative staff and staffing agency employees.

Funding will likely be issued through grants from the Office of Budget and Management (OBM). OHCA is currently working with OBM and the Ohio Department of Aging (ODA) on the distribution timelines and mechanisms. Not much progress has been made during these conversations so far, however the language for SNFs states that the distributions must be made by the end of the quarter. It is likely that the other funding will have a similar time frame.

OBM expressed that they want to ensure that the funding distribution does not violate the American Rescue Plan Act (ARPA) requirements and will likely impose some sort of reporting requirements, although not expressly required in the legislative text. Guidance on reporting will likely accompany the Grant Funding opportunity information.

While HB45 does provide short term funding, it does not resolve the issue of ongoing staffing inadequacy. OHCA will pursue funding through the Ohio Omnibus Budget bill for next year to secure substantial wage growth to attract more workers.

AHCA is also working on National Policy Initiatives relating to the intent for the Centers for Medicare and Medicaid Services (CMS) to impose minimum staffing requirements in SNFs during the next CMS SNF Payment Update Rule Making process. This draft rule should be issued in early May, with finalization occurring in early August. Although payment rate updates are applicable October 1, staffing requirements may have a future date. AHCA will publish information for grassroots involvement ahead of the draft rule issuance in May. OHCA will provide this information, as well as information from an informational webinar on January 20, for requests for individual provider comments. Comments should include impacts for your individual facility should staffing requirements be imposed and/or what would enable providers to meet this requirement.

Mr. Van Runkle also noted that the OHCA legislative agenda for 2023 would also include a resurgence of the previously introduced staffing agency legislation from 2022. The House passed version of this legislation did not include a limitation of fees, and future versions would likely not include this as well.

Next, Mr. Van Runkle moved to updates from the Department of Developmental Disabilities (DODD) workforce coalitions and activities. HB45 also included authorization for and appropriation for the DSP Retention Payment program, which is being funded by a combination of county board levy dollars and federal match. Agency providers interested in participating in the retention payment program have until January 16th to opt-in to the program for Q2 (April – June), Q3 (July – Sept) and Q4 (Oct – Dec) 2022. Last Tuesday, DODD opened the opt-in portal, but there was a technical issue which did not allow providers to opt-in to Q3 & Q4 if they first opted-in to Q2. That issue has been resolved so any provider who was unable to opt-in to Q3 & Q4 can now do so. Agencies have until January 16, 2022 to opt-in for the second, third and fourth quarters of 2022 with payments being issued on January 18 for the April – June 2022 quarter, January 25 for the July – September 2022 quarter and February 1 for the October – December 2022 quarter. Providers will need to issue payments to eligible staff by March 15, 2023 and complete reporting to the department by April 15 for all three 2022 quarters. The rules, OAC 5123-9-05, for the retention payment program are very prescriptive dictating that 82% of the amount the provider receives must be paid to eligible employee (this 82% allows for related payroll taxes). The remaining 18% has more flexibility, but the rule still outlines allowable uses for those funds. It is important to note that since this program is funded by the county boards, it is only available for DODD waiver providers. It is also approved through CMS via an Appendix K, so it is temporary in nature and tied to the public health emergency (PHE). It is unclear how many payments will be made, but it will end by 6 months following the end of the PHE, which is likely ending in April 2023.

Mr. Van Runkle also noted that DODD's Workforce Crisis Taskforce is scheduled to meet this coming Wednesday afternoon. However, OADSP has been holding regional forums for direct support professionals to share their experiences and feedback about the DSP position. In person forums were held during December, but they will be holding 2 virtual forums in January. OADSP noted that about 50 people attended these forums in December. OADSP is on the agenda for the workforce crisis taskforce meeting Wednesday, so we anticipate to get an update on the DSP experience project during that meeting.

Lastly, while the department presented an adult day reimbursement proposal that is full of issues and not acceptable, the methodology does recognize the need for higher wages for staff. We are still not exactly sure how the contractor determined those average wage rates, but it is a good sign that they are recognizing that the current average wage amounts utilized for reimbursement are not sufficient.

Mr. Van Runkle asked if committee members had any questions relating to the updates provided thus far. Chair Goodman asked, relating to the CMS Federal Staffing mandates, if AHCA was requesting that staff other than clinical workers be included in the definition of "staff", such as ancillary support staff. Mr. Van Runkle responded that there was not currently a list of staff included, but that AHCA would advocate for as many workers to be included as possible.

On the same topic, Jill Herron added that activities professionals and social workers should be included due to their high level of resident interaction particularly in long term care settings.

Tom Rickels then asked what the rationale was for the Blue Print workgroup to reduce rates, as noted in the DODD update. Mr. Van Runkle responded that it was an attempt to increase rates in higher acuity settings while still meeting the departmental budget. However, since we are currently undergoing budget negotiations, the formula for the available dollars on rate-setting will change in the near term.

Next, Chair Goodman invited Mandy Smith to discuss the OHCA Advocacy on Nurse Aide Training. Ms. Smith reminded committee members that we now have an allowance to use hybrid virtual and in-person training for State Tested Nursing Assistants (STNAs) in Ohio. OHCA is looking for a facility volunteer to use the Certified Nursing Assistant (CNA) Online training program for approval through the Ohio Department of Health (ODH). OHCA will provide this volunteer with support on the application and approval process. This will enable us to provide a template to other members who wish to apply. Ms. Smith also asked that if any members apply with their own virtual training program to let her know so that she can keep track of approvals and/or denials and assist as needed. Ms. Smith also asked that if providers have applied for a waiver and have been denied for unmet criteria, to let her know as well. OHCA is working with AHCA to intervene directly with CMS in cases where denials are inappropriate.

Ms. Smith then moved to an update on a five-year rule review on background checks impacting SNF, Residential Care Facility (RCF) and Hospice providers. The draft rules are located in the online folder. She noted that most of the rules are in statute, however OHCA would review for possible revisions. If committee members have any suggestions, please send to Mandy Smith. Bridget Mundy asked if it were possible to have different tiers of offenses for SNF providers, as we seen in the Home Health rules. Ms Smith responded that since those provisions are in statute, legislative action would be required to affect that change.

Chair Goodman then asked Erin Hart to provide an update on OHCA initiatives for funding opportunities in 2023. Ms. Hart noted that when she last participated on the Workforce Committee in March 2022, OHCA had drafted a proposal to Director McElroy at ODA to allocate ARPA dollars available for various post-acute provider types, and it is the understanding of OHCA that a vast majority of these funds are still available. OHCA would review state approved activity since that time, as well as their previous proposal, to re-engage with the Director on discussions to distribute those workforce investment dollars in long term care. She also noted that OHCA would once again pursue other initiatives that states have provided as successful, such as the Florida Health Care Association (FHCA) use of over \$1.8 million in Civil Money Penalties grants towards workforce. OHCA also had in their legislative agenda for 2023 on the budget initiatives to create reimbursement for home health/hospice aide, STNA and DSP training. OHCA would provide more information on the blue print for 2023 during our next meeting in February.

Ms. Hart then noted that the OHCA Workforce Summit was coming up in March 2023 and requested feedback from committee members on topics. She noted that OHCA would also review current Convention applications to see if there are existing sessions more appropriate for the Workforce Summit. Speaker selections were due by January 30 for this educational session.

Chair Goodman then provided an update from the Consolidated Appropriations Act passed on December 29, 2022. The Pregnant Worker Fairness Act does not go into effect for 180 days and expands on current protections in place for pregnant workers. The U.S. Equal Employment Opportunity Commission would need to develop rules surrounding these provisions in that time period. More information would become available at a later date. Additionally, the Pump Act slightly broadens existing rules to allow for paid breaks for expressing breast milk, including salary employees. This rule

went into effect immediately. Lastly, the Federal Trade Commission proposed a rule banning non-compete agreements. If this rule goes through, it also will not take effect for 180 days. It is likely that many changes would be made, considering the large amount of opposition for this rule.

Chair Goodman asked if there were any questions or updates from committee members. Hearing none, the meeting was adjourned.

Next meeting: February 13, 2023, 1:00 p.m.

| First Name | Last Name | 1/9/2023 |
|-------------------|-------------------|-----------------|
| Amy | Allen | X |
| T. | Allison | X |
| Steve | Boymel | X |
| Jamie | Brose | X |
| Nathan | Carder | X |
| Pam | Cooke | X |
| Melissa | Courtock | X |
| John | Dombrowski | X |
| Ken | Fetterman | X |
| John | Goodman | X |
| Belinda | Groppi | X |
| Erin | Hart | X |
| Jill | Herron | X |
| Brenda | Honigford | X |
| John | Jones | X |
| Eileen | Kilbane | X |
| Kelsey | Knisley | X |
| Joan | Longhin-Howard | X |
| Heidi | McCoy | X |
| Greg | Miller | X |
| Jeremy | Monroe | X |
| Bridgett | Mundy | X |
| Tom | Rickels | X |
| Mark | Schlater | X |
| Ginger | Schuerger-Davison | X |
| Mandy | Smith | X |
| Nicole | Sprenger | X |
| Pete | Van Runkle | X |